

1 David Henderson  
2 Law Offices of David Henderson  
3 P.O. Box 2441  
4 Bethel, Alaska 99559  
5 Phone: 907-543-7891  
6 Fax: 907-543-1924

7 Attorney for Plaintiff

8  
9 UNITED STATES DISTRICT COURT

10 FOR THE DISTRICT OF ALASKA

11 GALEN SWAN, )  
12 Plaintiff, )  
13 vs. ) Case no. A 15 - \_\_\_\_\_ Civil  
14 UNITED STATES OF AMERICA, )  
15 Defendant. )  
16 \_\_\_\_\_

17 COMPLAINT

18 COMES NOW Plaintiff Galen Swan and states as follows:

19 Jurisdiction

20 1. At all times relevant hereto, Galen Swan was a  
21 resident of Kivalina, Alaska, in the District of Alaska.

22 2. This cause of action arises under the Federal  
23 Tort Claims Act 28 U.S.C. sec. 1346, 2401, and 2671 et seq.

24 3. At all times relevant hereto, Dr. Eric Torres-  
25 Semprit, Ruth Lagerberg, and Isabel Booth were employees or  
agents of the United States of America.

4. At all times relevant hereto, the Maniilaq Health Center was an agent of the United States of America.

5. Each of the employees and entities named above  
were acting within the scope of their employment and/or agency  
at the time of the events described herein.

6. More than six months ago, the claims set forth  
7  
herein were presented to the United Stated Department of  
8  
Health and Human Services, Public Health Services. Since that  
9  
agency has failed to make a final disposition of the claim  
10  
within that time period, plaintiff deems such failure to be a  
11  
denial of his claim pursuant to 28 U.S.C. sec 2675.

7. Based on paragraphs 1-6 above, this court has jurisdiction over the claims asserted herein.

## I. Facts

8. On February 22, 2010, the Plaintiff was seen at the Maniilaq Health Center in Kotzebue, AK. He had problems with rectal bleeding and had a stool test which resulted in a positive fecal occult blood test. It was necessary to have a colonoscopy and the defendants, (doctors, hospital, staff, and nurses) never informed him of his blood test and need for a referral, despite the Plaintiff going back to the hospital numerous times over the next two and a half years.

1           9. On September 26, 2012, after finally being referred  
2 for a colonoscopy, he was found to have colon cancer, and  
3 underwent urgent surgery to remove part of his colon. He  
4 subsequently had to undergo extensive radiation treatment and  
5 chemotherapy because of the stage of the cancer. He now has  
6 neuropathy, bowel problems, erectile dysfunction, and an  
7 uncertain future from the cancer.  
8

9           **II. Allegation of Negligence and Recklessness**

10          10. Plaintiff incorporates the allegations set forth in  
11 Paragraph 1-9.

12          11. Agents and/or employees of the Maniilaq Health  
13 Center failed to exercise the degree of care ordinarily  
14 exercised under the circumstances by failing to follow up with  
15 his positive blood test, failing to schedule a colonoscopy,  
16 and failing to exercise due care in their treatment.

17          12. The negligent and reckless care and conduct of  
18 employees and/or agents of the Maniilaq Health Center was a  
19 direct and proximate cause of the plaintiffs' injuries.  
20

21           WHEREFORE, plaintiff prays for relief as follows:

22          1. Past and future pain and suffering.  
23          2. Past and future medical expenses.  
24          3. Past and future lost earning capacity, including  
25           subsistence losses.

1           4. Any other relief courts deems just and proper.

2           3           DATED this 26 day of January, 2015, at Bethel, Alaska.

4           5           LAW OFFICES OF DAVID HENDERSON  
6           6           Attorney for the Plaintiff

7           8             
9           10           David Henderson #9806014

11           12           LAW OFFICES OF DAVID HENDERSON  
13           14           P.O. Box 2441  
15           16           Bethel, Alaska 99559  
17           18           Phone: (907) 543-7891  
19           20           Fax: (907) 543-1924